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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **WESTERN DIVISION**

16 ROBERT HUNTER BIDEN, an
individual,

17 Plaintiff,

18 vs.

19 PATRICK M. BYRNE, an individual,

20 Defendant.

Case No. 2:23-cv-09430-SVW-PD

**PLAINTIFF ROBERT HUNTER
BIDEN'S SUPPLEMENTAL
OPPOSITION TO DEFENDANT'S
MOTION IN LIMINE NO. 2 TO
EXCLUDE TESTIMONY OR
EVIDENCE OF PLAINTIFF'S
SEVERE ALLEGED EMOTIONAL
DISTRESS**

21 Date: July 21, 2025
22 Time: 3:00 P.M.
23 Place: Ctrm. 10A

24 Judge: Hon. Stephen V. Wilson

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

3 By this motion in limine, Defendant Patrick M. Byrne (“Defendant”) seeks to
4 exclude any evidence or testimony of the emotional distress that Plaintiff Robert
5 Hunter Biden (“Plaintiff”) suffered as a result of the defamatory statements that
6 Defendant made about Plaintiff on the grounds that Plaintiff has not presented any
7 evidence of such emotional distress except his own testimony. Plaintiff will not be
8 seeking any emotional distress damages at trial and will not include such damages on
9 the verdict form. Rather Plaintiff will be seeking nominal damages as a result of
10 Defendant’s statements which constitute defamation *per se*. Therefore, this motion
11 should be denied because it is moot.

II. ARGUMENT

13 Motions in limine are procedural devices to obtain an early and preliminary
14 ruling on the admissibility of evidence. *United States v. Heller*, 551 F.3d 1108, 1111
15 (9th Cir. 2009). When an issue in the case that is the subject of a motion in limine
16 has become moot, that is grounds to deny the motion. *Id.* Trial courts have broad
17 discretion when ruling on motions in limine. *See Jenkins v. Chrysler Motors Corp.*,
18 316 F.3d 663, 664 (7th Cir. 2002).

19 To exclude evidence on a motion in limine, the evidence must be “clearly
20 inadmissible on all potential grounds.” *Matrix Int'l Textile, Inc, v. Monopoly Textile,*
21 *Inc.*, 2017 WL 2929377, at *1 (C.D. Cal. May 14, 2017) (citation omitted). “Unless
22 evidence meets this high standard, evidentiary rulings should be deferred until trial so
23 that questions of foundation, relevancy and potential prejudice may be resolved in
24 proper context.” *Id.* (citation omitted). This is because although rulings on motions in
25 limine may save “time, cost, effort and preparation, a court is almost always better
26 situated during the actual trial to assess the value and utility of evidence.” *Id.* (citation
27 omitted).

1 Plaintiff has indicated that he will not be seeking any emotional distress
2 damages at trial, and rather will seek nominal damages and punitive damages as a
3 result of Defendant's statements which constitute defamation *per se*. When a plaintiff
4 can plead and prove defamation *per se* "it need not prove special damages: '[D]amage
5 to plaintiff's reputation is conclusively presumed and he need not introduce evidence
6 of actual damages in order to obtain or sustain an award of damages' including, in an
7 appropriate case, punitive damages." *Barnes-Hind, Inc. v. Superior Court*, 181
8 Cal.App.3d 377, 382 (1986) (quoting *Contento v. Mitchell*, 28 Cal.App.3d 356, 358
9 (1972).) "Where the trier of fact has found the existence of [defamation] *per se*, and
10 has found the requisite malice in fact, an award of punitive damages is proper despite
11 the absence of a specific award of nominal damages.". *Contento*, 28 Cal.App.3d at
12 359. Finally, it is well-settled that "one guilty of libel *per se* is liable to the person
13 libeled for at least nominal damages." *Di Giorgio Fruit Corp. v. Am. Fed'n of Lab.&*
14 *Cong. Of Indus. Organizations*, 215 Cal.App.2d 560, 577 (1963). Accordingly,
15 Defendant's Motion in Limine No. 2 is moot and should be denied.

16 III. CONCLUSION

17 For the foregoing reasons, the Court should deny Defendant's Motion In
18 Limine No. 2.

19 | Dated: June 30, 2025

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By: /s/ Zachary C. Hansen

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